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FEB 13 2007  
PATENT & TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/605,476	10/01/2003	Scott Mathis	4072-045	2475
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29797 7590 01/31/2007  
JOHN RICHARD MERKLING  
11171 WEST EXPOSITION DRIVE  
LAKEWOOD, CO 80226-3867

EXAMINER

BOCKELMAN, MARK

ART UNIT	PAPER NUMBER
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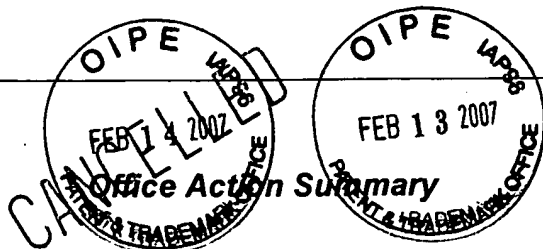
3766

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS	01/31/2007	PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



Application No.

10/605,476

Applicant(s)

MATHIS ET AL.

Examiner

Mark W. Bockelman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-14 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 9-10 and 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 16-1-2003

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salo et al USPN 6,708,061 in view of Gold USPN 4,444,195. Salo teaches a device and method for optimizing cardiac parameters based upon pacing mode configurations in which various pacing configurations may be include including inter-site ventricular pacing as well as atrial. Thus various electrodes may be selected for testing the performance. Although Salo does not state that these electrodes are on a single lead, Gold shows that having selectable electrodes on a lead for stimulating various sites was known. To have provided a single catheter for selecting electrodes for inter-atrial, atrial-ventricular, and inter-ventricular pacing would have been obvious. The means for selecting electrodes lying on the septum is an intended use, and the pacing of the septum area is a capability of the reference. Applicant's sizes and spacing are obvious alternatives depending on the degree of AV delay one wants to achieve.

Claims 11-14, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salo et al USPN 6,708,061 in view of Gold USPN 4,444,195 and further in view of Bradley USPN 6,473,647. While Salo teaches a timer for measuring ACL and comparing them to each other for feature to select the best, he does not state such is a

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template. However, Bradley demonstrates (column 8 lines 40-54) that emplate matching, feature matching etc. are all known methods of comparing response patterns. To have used such in Salo et al. would have been obvious.

***Allowable Subject Matter***

Claims 9-10, 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark W. Bockelman whose telephone number is (571) 272-4941. The examiner can normally be reached on Monday - Friday 10:00 to 6:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272 -6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWB

January 8, 2007

  
MARK BOCKELMAN  
PRIMARY EXAMINER

**Notice of References Cited**



Application/Control No.

10/605,476

Applicant(s)/Patent Under  
Reexamination  
MATHIS ET AL.

Examiner

Mark W. Bockelman

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**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-4,444,195	04-1984	Gold, Philip	600/374
*	B	US-6,473,647	10-2002	Bradley, Kerry	607/27
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

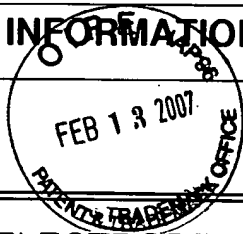
*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

# ELECTRONIC INFORMATION DISCLOSURE STATEMENT

Electronic Version v18

Stylesheet Version v18.0



## Title of Invention

MULTI-ELECTRODE APPARATUS AND METHOD FOR  
TREATMENT OF CONGESTIVE HEART FAILURE

Application Number :

Confirmation Number:

First Named Applicant: Scott Mathis

Attorney Docket Number: 4072-045

Art Unit: 3762

Examiner: Mr. Mark W Bockelman

Search string: ( 5417717 or 5800465 ).pn

## US Patent Documents

Note: Applicant is not required to submit a paper copy of cited US Patent Documents

init	Cite.No.	Patent No.	Date	Patentee.	Kind	Class	Subclass
	1	5417717	1995-05-23	Salo et al.	A1	607	18
	2	5800465	1998-09-01	Thompson et al.	A1	607	9

## Signature

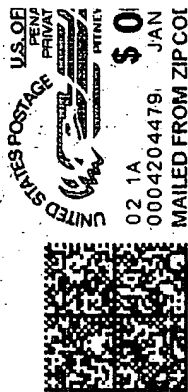
Examiner Name	Date
<i>Mark W Bockelman</i>	1-8-07

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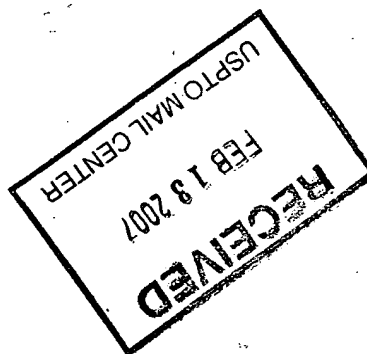
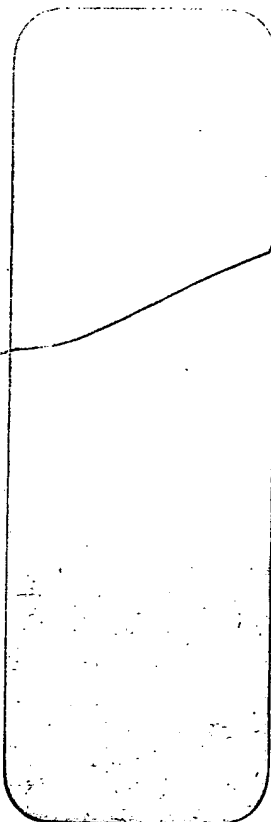
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